

By the Committees on Judiciary; and Health Regulation; and  
Senator Ring

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1                   A bill to be entitled  
2           An act relating to electronic health information;  
3           amending s. 408.05, F.S.; requiring the State Consumer  
4           Health Information and Policy Advisory Council to  
5           develop the Agency for Health Care Administration's  
6           strategic plan relating to electronic health records;  
7           amending s. 408.051, F.S.; defining the terms "agency"  
8           and "health information exchange participation  
9           agreement"; creating s. 408.0513, F.S.; requiring the  
10          agency to develop uniform elements of a Florida Health  
11          Information Exchange Participation Agreement for use  
12          by health care providers; requiring the agency to post  
13          the agreement on the agency's Internet website;  
14          providing for immunity from civil liability for  
15          accessing or releasing certain health records;  
16          providing that health care providers are not required  
17          to incorporate the uniform elements of the agreement;  
18          creating s. 408.0514, F.S.; requiring the agency to  
19          coordinate with regional extension centers to  
20          implement the use of electronic health records;  
21          authorizing the agency to establish guidelines for  
22          center services and state Medicaid participation and  
23          use of such services; amending s. 408.061, F.S.;  
24          deleting a reference to an administrative rule  
25          relating to certain data reported by health care  
26          facilities; amending s. 408.0611, F.S.; revising  
27          provisions relating to a clearinghouse on information  
28          on electronic prescribing; requiring the State  
29          Consumer Health Information and Policy Advisory

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30 Council or a workgroup representing electronic  
31 prescribing and other health information technology  
32 stakeholders to participate in quarterly meetings on  
33 the implementation of electronic prescribing;  
34 requiring the agency to provide a report on the  
35 agency's Internet website; amending s. 408.062, F.S.;  
36 requiring the agency to post certain information on  
37 health care expenditures on the agency's Internet  
38 website; amending s. 408.063, F.S.; deleting the  
39 requirement that the agency annually publish a report  
40 on state health expenditures; providing an effective  
41 date.

42  
43 WHEREAS, the use of electronic health information  
44 technology has improved the quality of health care, and

45 WHEREAS, coordinating federally funded training and  
46 outreach activities with a state-based health information  
47 technology program will advance the adoption and meaningful use  
48 of electronic health records, and

49 WHEREAS, the Agency for Health Care Administration is  
50 responsible for developing a strategy for the implementation of  
51 an electronic health information network in this state, NOW,  
52 THEREFORE,

53  
54 Be It Enacted by the Legislature of the State of Florida:

55  
56 Section 1. Paragraph (h) of subsection (8) of section  
57 408.05, Florida Statutes, is amended to read:

58 408.05 Florida Center for Health Information and Policy

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59 Analysis.—

60 (8) STATE CONSUMER HEALTH INFORMATION AND POLICY ADVISORY  
61 COUNCIL.—

62 (h) The council's duties and responsibilities include, but  
63 are not limited to, ~~the following~~:

64 1. Developing ~~To develop~~ a mission statement, goals, and a  
65 plan of action for the identification, collection,  
66 standardization, sharing, and coordination of health-related  
67 data across federal, state, and local government and private  
68 sector entities.

69 2. Developing the agency's strategic plan for the adoption  
70 and use of electronic health records, as specified in s.  
71 408.062(5).

72 3.2. Developing ~~To develop~~ a review process that ensures ~~to~~  
73 ~~ensure~~ cooperative planning among agencies that collect or  
74 maintain health-related data.

75 4.3. Establishing ~~To create~~ ad hoc, issue-oriented  
76 technical workgroups as needed ~~on an as-needed basis~~ to make  
77 recommendations to the council.

78 Section 2. Subsection (2) of section 408.051, Florida  
79 Statutes, is reordered and amended to read:

80 408.051 Florida Electronic Health Records Exchange Act.—

81 (2) DEFINITIONS.—As used in this section and ss. 408.0512-  
82 408.0514, the term:

83 (a) "Agency" means the Agency for Health Care  
84 Administration.

85 (c) ~~(a)~~ "Electronic health record" means a record of an  
86 individual's ~~a person's~~ medical treatment which is created by a  
87 licensed health care provider and stored in an interoperable and

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88 accessible digital format.

89 (i)~~(b)~~ "Qualified electronic health record" means an  
90 electronic record of health-related information concerning an  
91 individual which includes patient demographic and clinical  
92 health information, such as medical history and problem lists,  
93 and which has the capacity to provide clinical decision support,  
94 to support physician order entry, to capture and query  
95 information relevant to health care quality, and to exchange  
96 electronic health information with, and integrate such  
97 information from, other sources.

98 (b)~~(e)~~ "Certified electronic health record technology"  
99 means a qualified electronic health record that is certified  
100 pursuant to s. 3001(c)(5) of the Public Health Service Act as  
101 meeting standards adopted under s. 3004 of that ~~such~~ act which  
102 are applicable to the type of record involved, such as an  
103 ambulatory electronic health record for office-based physicians  
104 or an inpatient hospital electronic health record for hospitals.

105 (d) "Health information exchange participation agreement"  
106 means a comprehensive, multiparty trust agreement that can be  
107 used by health care providers and other organizations, both  
108 public and private, that wish to participate in a health  
109 information exchange network. The agreement provides the legal  
110 framework that governs participation in the network by requiring  
111 the signatories to abide by a common set of terms and conditions  
112 to support the secure, interoperable exchange of health care  
113 data among authorized participants.

114 (e)~~(d)~~ "Health record" means any information, recorded in  
115 any form or medium, which relates to the past, present, or  
116 future health of an individual for the primary purpose of

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117 providing health care and health-related services.

118 (f)~~(e)~~ "Identifiable health record" means a ~~any~~ health  
119 record that identifies the patient or for ~~with respect to~~ which  
120 there is a reasonable basis to believe the information can be  
121 used to identify the patient.

122 (g)~~(f)~~ "Patient" means an individual who has sought, is  
123 seeking, is undergoing, or has undergone care or treatment in a  
124 health care facility or by a health care provider.

125 (h)~~(g)~~ "Patient representative" means a parent of a minor  
126 patient, a court-appointed guardian for the patient, a health  
127 care surrogate, or a person holding a power of attorney or  
128 notarized consent appropriately executed by the patient granting  
129 permission for ~~to~~ a health care facility or health care provider  
130 to disclose the patient's health care information to that  
131 person. In the case of a deceased patient, the term also means  
132 the personal representative of the estate of the deceased  
133 patient; the deceased patient's surviving spouse, surviving  
134 parent, or surviving adult child; the parent or guardian of a  
135 surviving minor child of the deceased patient; the attorney for  
136 the patient's surviving spouse, parent, or adult child; or the  
137 attorney for the parent or guardian of a surviving minor child.

138 Section 3. Section 408.0513, Florida Statutes, is created  
139 to read:

140 408.0513 Florida Health Information Exchange Participation  
141 Agreement.—

142 (1) By July 1, 2011, the agency shall identify and describe  
143 elements of a Florida Health Information Exchange Participation  
144 Agreement (or Florida HIE Participation Agreement) for use by  
145 health care providers and other organizations which specifies

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146 the terms and conditions for the exchange of health information.

147 (2) The agency shall adopt by rule the elements for a  
148 Florida HIE Participation Agreement and make the uniform  
149 elements available on the agency's Internet website, pursuant to  
150 s. 408.05. The elements of the agreement must include a  
151 requirement to use the universal patient authorization form, as  
152 provided in s. 408.051(4), when such form is adopted by rule.

153 (3) A health care provider that participates in the  
154 exchange of health information in reliance on a Florida HIE  
155 Participation Agreement containing all of the uniform elements  
156 does not violate any right of confidentiality and is immune from  
157 civil liability for accessing or releasing an identifiable  
158 health record under the agreement.

159 (4) A health care provider is not required under this  
160 section to incorporate one or more of the uniform elements  
161 adopted and distributed by the agency in an agreement to  
162 participate in the exchange of health information.

163 Section 4. Section 408.0514, Florida Statutes, is created  
164 to read:

165 408.0514 Regional extension centers.—

166 (1) The agency shall coordinate with federally funded  
167 regional extension centers operating in this state to increase  
168 provider readiness in implementing the use of electronic health  
169 records in order to enable provider participation in health  
170 information exchange and electronic prescribing, including, but  
171 not limited to, readiness to prepare, use, and report  
172 performance measures required to qualify for federal and state  
173 electronic health record adoption incentive programs.

174 (2) The agency may establish guidelines for services

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175 provided to Medicaid providers by regional extension centers and  
176 conditions for state Medicaid participation and use of such  
177 services.

178 Section 5. Paragraph (a) of subsection (1) of section  
179 408.061, Florida Statutes, is amended to read:

180 408.061 Data collection; uniform systems of financial  
181 reporting; information relating to physician charges;  
182 confidential information; immunity.—

183 (1) The agency shall require the submission by health care  
184 facilities, health care providers, and health insurers of data  
185 necessary to carry out the agency's duties. Specifications for  
186 data to be collected under this section shall be developed by  
187 the agency with the assistance of technical advisory panels  
188 including representatives of affected entities, consumers,  
189 purchasers, and such other interested parties as may be  
190 determined by the agency.

191 (a) Data submitted by health care facilities, including ~~the~~  
192 facilities as defined in chapter 395, must ~~shall~~ include, but is  
193 ~~are~~ not limited to: case-mix data;; patient admission and  
194 discharge data;; hospital emergency department data, which  
195 includes ~~shall include~~ the number of patients treated in the  
196 hospital's emergency department and ~~of a licensed hospital~~  
197 reported by patient acuity level;; data on hospital-acquired  
198 infections as specified by rule;; data on complications as  
199 specified by rule;; data on readmissions as specified by rule,  
200 which includes ~~with~~ patient and provider-specific identifiers;;  
201 ~~included~~, actual charge data by diagnostic groups;; financial  
202 data;; accounting data;; operating expenses;; expenses incurred  
203 for rendering services to patients who cannot or do not pay;;

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204 interest charges;; depreciation expenses based on the expected  
205 useful life of the property and equipment involved;; and  
206 demographic data. The agency shall adopt nationally recognized  
207 risk adjustment methodologies or software consistent with the  
208 standards of the Agency for Healthcare Research and Quality and  
209 as selected by the agency for all data submitted under ~~as~~  
210 ~~required by~~ this section. Data may be obtained from documents  
211 such as, but not limited to: leases, contracts, debt  
212 instruments, itemized patient bills, medical record abstracts,  
213 and related diagnostic information. Reported data elements shall  
214 be reported electronically, and ~~in accordance with rule 59E-~~  
215 ~~7.012, Florida Administrative Code. Data submitted shall be~~  
216 ~~certified by~~ the chief executive officer or an appropriate and  
217 duly authorized representative or employee of the licensed  
218 facility must certify that the information submitted is true and  
219 accurate.

220 Section 6. Subsections (3) and (4) of section 408.0611,  
221 Florida Statutes, are amended to read:

222 408.0611 Electronic prescribing clearinghouse.—

223 (3) The agency shall work in collaboration with private  
224 sector electronic prescribing initiatives and relevant  
225 stakeholders to create a clearinghouse of information on  
226 electronic prescribing for health care practitioners, health  
227 care facilities, regional health information organizations,  
228 health care consumers, and pharmacies, and regional extension  
229 centers that promote adoption of electronic health records.  
230 ~~These stakeholders shall include organizations that represent~~  
231 ~~health care practitioners, organizations that represent health~~  
232 ~~care facilities, organizations that represent pharmacies,~~

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233 ~~organizations that operate electronic prescribing networks,~~  
234 ~~organizations that create electronic prescribing products, and~~  
235 ~~regional health information organizations.~~ Specifically, the  
236 agency shall, ~~by October 1, 2007:~~

237 (a) Provide on its website:

238 1. Information regarding the process of electronic  
239 prescribing and the availability of electronic prescribing  
240 products, including no-cost or low-cost products;

241 2. Information regarding the advantages of electronic  
242 prescribing, including using medication history data to prevent  
243 drug interactions, prevent allergic reactions, and deter doctor  
244 and pharmacy shopping for controlled substances;

245 3. Links to federal and private sector websites that  
246 provide guidance on selecting an appropriate electronic  
247 prescribing product; and

248 4. Links to state, federal, and private sector incentive  
249 programs for the implementation of electronic prescribing.

250 (b) Convene quarterly meetings of the State Consumer Health  
251 Information and Policy Advisory Council or a workgroup  
252 representing electronic prescribing and other health information  
253 technology stakeholders to assess and accelerate the  
254 implementation of electronic prescribing.

255 (4) Pursuant to s. 408.061, the agency shall monitor the  
256 implementation of electronic prescribing by health care  
257 practitioners, health care facilities, and pharmacies. By  
258 January 31 of each year, the agency shall report metrics on the  
259 ~~progress of implementation of electronic prescribing on the~~  
260 ~~agency's Internet website to the Governor and the Legislature.~~  
261 The information reported must pursuant to this subsection shall

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262 include federal and private sector electronic prescribing  
263 initiatives and, to the extent that data is readily available  
264 from organizations that operate electronic prescribing networks,  
265 the number of health care practitioners using electronic  
266 prescribing and the number of prescriptions electronically  
267 transmitted.

268 Section 7. Paragraph (e) of subsection (1) of section  
269 408.062, Florida Statutes, is amended to read:

270 408.062 Research, analyses, studies, and reports.—

271 (1) The agency shall conduct research, analyses, and  
272 studies relating to health care costs and access to and quality  
273 of health care services as access and quality are affected by  
274 changes in health care costs. Such research, analyses, and  
275 studies shall include, but not be limited to:

276 (e) Total health care expenditures in the state according  
277 to the sources of payment and the type of expenditure shall be  
278 published on the agency's Internet website.

279 Section 8. Subsections (5) and (6) of section 408.063,  
280 Florida Statutes, are amended to read:

281 408.063 Dissemination of health care information.—

282 ~~(5) The agency shall publish annually a comprehensive~~  
283 ~~report of state health expenditures. The report shall identify:~~

284 ~~(a) The contribution of health care dollars made by all~~  
285 ~~payors.~~

286 ~~(b) The dollars expended by type of health care service in~~  
287 ~~Florida.~~

288 (5) ~~(6)~~ The staff of the Agency staff may conduct or sponsor  
289 consumer information and education seminars at locations  
290 throughout the state and may hold public hearings to solicit

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291 consumer concerns or complaints relating to health care costs  
292 and make recommendations to the agency for study, action, or  
293 investigation.

294 Section 9. This act shall take effect July 1, 2010.